IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

TUESDAY, THE 19TH DECEMBER 2006 / 28TH AGRAHAYANA 1928

WP(C).No. 15014 of 2006(K)

PETITIONER:

MADHAVAN, AGED 60,
S/O.KOCHURAMAN, POOKODAN HOUSE,
MADATHIKARA, PULLOOR P.O., THRISSUR DISTRICT.

BY ADV. SRI.A.X.VARGHESE
ADV.SREEKUMAR G (CHELUR)

RESPONDENTS:

1. THE IRINJALAKUDA TOWN CO-OPERATIVE BANK LTD., REP. BY ITS BRANCH MANAGER, TANA, IRINJALAKUDA P.O., THRISSUR DISTRICT.

2. THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES, MUKUNDAPURAM TALUK, IRINJALAKUDA P.O., THRISSUR DISTRICT.

3. THE SPECIAL SALE OFFICER, OFFICE OF THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES, MUKUNDAPURAM TALUK, IRINJALAKUDA P.O., THRISSUR DISTRICT.

4. ADARSH KURIES AND FINANCE (P) LTD., IRINJALAKUDA P.O., THRISSUR DISTRICT.

5. THE SECRETARY TO THE GOVERNMENT, CO-OPERATIVE DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

ADDL.R6 THE SUPERINTENDENT OF POLICE, THRISSUR

ADDL.R7 THE CIRCLE INSPECTOR OF POLICE, IRINJALAKUDA

ADDL.R8 THE SUB INSPECTOR OF POLICE, IRINJALAKUDA

ADDL.RESPONDENTS 6 TO 8 IMPLEADED AS PER ORDER ON I.A.NO.10884/06, DATED 16/08/2006

BY ADV. SRI.N.P.SAMUEL FOR R1
ADV.SRI.K.G.BALASUBRAMANIAM FOR R4

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXTS:-

EXT.P1 TRUE COPY OF THE APPEAL ORDER BY THE FIFTH RESPONDENT DATED 23/03/2006

EXT.P2 A TRUE COPY OF THE DISPOSSESSION NOTICE ISSUED BY THE THIRD RESPONDENT TO THE PETITIONER DATED 12/04/2006.

EXT.P3 PHOTOCOPY OF THE REPRESENTATION DATED 28TH JULY 2006.

RESPONDENT'S EXTS:-

EXT.R1(a) TRUE COPY OF JUDGMENT IN W.P(C) NO.5731/2005 OF THIS HONOURABLE COURT DTD.21/11/2005

EXT.R1 (b) PHOTO COPY OF DELIVERY RECEIPT DTD.07/06/2006 OF THE ARBITRATOR

EXT.R1 (c) PHOTO COPY OF LETTER SENT BY K.K.ANTO TO SALE OFFICER, IRINJALAKUDA TOWN CO-OP.BANK ON 07/06/2006.

\\TRUE COPY //

P.A TO JUDGE

J.M.JAMES, J.

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W.P.(C) No. 15014 of 2006 (K)

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Dated this the 19th day of December, 2006

J U D G M E N T

The writ petitioner has defaulted payments due to the first respondent, Irinjalakuda Town Co-operative Bank Ltd., as well as to the fourth respondent, the Adarsh Kuries and Finance (P) Ltd.. The property was subjected to mortage to both these establishments. It is submitted that the fourth respondent had cleared the dues, in respect of the property of the petitioner, with the first respondent bank and also bid the property in auction. Hence, the fourth respondent is in possession of the property covered under the auction, as a successful bidder.

2. The writ petitioner approached the Government and, as per Exhibit P1 order dated 23/03/2006, the appeal was disposed of. But an observation was made therein to the effect that:-

> "Even now the company is willing to return the property if the appellant remits the sale amount along with other costs, interest etc., So the appellant can avail such offer of the company if he want to take the property back."

3. This writ petition is now filed challenging Exhibit P1 order of the Government and Exhibit P2 eviction order.

4. I heard the arguments advanced by both sides. I find no merit in the contentions so as to interfere with Exhibit P1 order and Exhibit P2 proceedings initiated based on Exhibit P1. However, as the writ petitioner is prepared to pay the entire amount due to the fourth respondent and the fourth respondent is prepared to receive the same, I dispose of this writ petition, with the following directions:-

i. The writ petitioner shall approach the fourth respondent. The latter shall hear the writ petitioner and finalise the amount due from the writ petitioner.

ii. The writ petitioner shall pay the entire amount due to the fourth respondent, as would be calculated by the fourth respondent, in terms of Exhibits P1 and P2, within two months from today.

iii. On complete payment of the amount, due to the fourth respondent, as there is no liability existing with the first respondent, the fourth respondent shall release the property, in favour of the writ petitioner, at the expenses of the writ petitioner.

This writ petition is closed as above.

(J.M.JAMES)
Judge

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